



HONG KONG MONETARY AUTHORITY

香港金融管理局

Our Ref: B1/15C
G16/1C

6 April 2011

The Chief Executive
All Authorized Institutions

Dear Sir/ Madam,

Streamlined sales process for investment products

In recent months, the Hong Kong Monetary Authority and the banking industry have engaged in detailed discussions to explore how the sales process for investment products might be streamlined to facilitate investors wishing to purchase investment products whilst ensuring they are adequately protected. Following the introduction of the pilot project for streamlining the sales of renminbi retail bonds and with the implementation of new investor protection measures for less experienced investors such as the Pre-Investment Cooling-off Period, we consider it timely to streamline the sales process for plain vanilla investment products and also to allow vulnerable investors the right to choose whether to enjoy certain additional safeguards during the sales process.

The streamlined arrangements agreed with the industry are set out below. When implementing these arrangements, authorized institutions (AIs) should ensure that proper controls are adopted with clear audit trails and that clear guidance is provided to relevant staff.

Sales of investment products to vulnerable customers (VCs)

The implementation of the Pre-Investment Cooling-off Period since 1 January 2011 has further strengthened the protection provided to VCs during the sales process. Taking this into account, we consider it appropriate to allow VCs the flexibility in choosing whether they wish to continue to enjoy the safeguards mentioned below.

For all investment products, AIs should allow VCs to choose during the initial transaction whether they would like to (i) bring along a companion to witness the sales process and/or (ii) have a second front-line staff member to handle the sales. The VC can choose to have either, neither or both safeguards. AIs should adopt the VCs' choices and maintain proper audit trails of the choices.

Streamlined sales process for plain vanilla investment products

Where there is no risk mismatch¹, and subject to the exceptions set out in the next paragraph, audio recording is not required for the face-to-face sales process² in respect of:

- (i) plain vanilla investment products (without embedded derivatives and without leverage) where the products or product documents have been authorized by the Securities and Futures Commission;
- (ii) sovereign bonds issued by the Ministry of Finance of the People's Republic of China; or
- (iii) bonds issued by the HKSAR Government.

Certain categories of bonds are not common investment products and their risks and nature are substantially different from other plain vanilla bonds. Therefore, audio-recording is still required for bonds that have the following features:

- (i) either the issue or the issuer, or both, have a credit rating below an investment grade;
- (ii) both the issue and the issuer are unrated;
- (iii) perpetual bonds; or
- (iv) subordinated bonds.

AIs should ensure that their frontline staff have ready access to clear and comprehensive lists of individual products whose sales process does not require audio recording (e.g. through system enquiry) so that there is clarity and consistency in applying the above framework.

As always, AIs are required to provide a clear explanation of the product nature and risks to the customers during the sales process. AIs are also reminded to consider each customer's personal circumstances (such as his/her financial situation, investment objectives, experience, knowledge, horizon and risk tolerance before making any recommendation or solicitation to the customer) and to maintain proper documentary records of the recommendation, including the underlying rationale. For transactions involving risk mismatch, AIs should follow the existing regulatory requirements, including audio recording the sales process.

If you have any questions on this letter, please feel free to contact Ms Alice Lee at 2878-1603 or Ms Florence To at 2878-1582.

¹ Risk mismatch means that the product risk rating is higher than the customer's risk tolerance level.

² For the avoidance of doubt, audio recording is still required for the customer risk profiling process. Moreover, if the sales process is conducted by telephone, the relevant telephone conversation(s) must be audio-recorded.

Yours faithfully,

Meena Datwani
Executive Director (Banking Conduct)

c.c. Securities and Futures Commission
(Attn: Mr Stephen Po, Senior Director of Intermediaries Supervision)